

CENTER FOR DISABILITY ACCESS
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Amanda Liendo,
Plaintiff,

v.

Kuei Feng Wu;
Wan Hui Huang;
Johnny's Shrimp Boat, Inc., a
California Corporation; and Does 1-
10,
Defendants.

Case No.

**Complaint For Damages And
Injunctive Relief For** Violations
Of: American's With Disabilities
Act; Unruh Civil Rights Act

Plaintiff Amanda Liendo complains of Defendants Kuei Feng Wu; Wan Hui Huang; Johnny's Shrimp Boat, Inc., a California Corporation; and Does 1-10 ("Defendants") and alleges as follows:

PARTIES:

1. Plaintiff is a California resident with physical disabilities. She is a paraplegic who cannot walk and who uses a wheelchair for mobility.
2. Defendants Kuei Feng Wu and Wan Hui Huang owned the property located at or about 11236 Washington Blvd., Whittier, California, in October

1 2014.

2 3. Defendants Kuei Feng Wu and Wan Hui Huang own the property
3 located at or about 11236 Washington Blvd., Whittier, California, currently.

4 4. Defendant Johnny's Shrimp Boat, Inc. owned Johnny's Shrimp Boat
5 restaurant ("Restaurant") located at or about 11236 Washington Blvd.,
6 Whittier, California, in October 2014.

7 5. Defendant Johnny's Shrimp Boat, Inc. owns Johnny's Shrimp Boat
8 restaurant ("Restaurant") located at or about 11236 Washington Blvd.,
9 Whittier, California, currently.

10 6. Plaintiff does not know the true names of Defendants, their business
11 capacities, their ownership connection to the property and business, or their
12 relative responsibilities in causing the access violations herein complained of,
13 and alleges a joint venture and common enterprise by all such Defendants.
14 Plaintiff is informed and believes that each of the Defendants herein,
15 including Does 1 through 10, inclusive, is responsible in some capacity for
16 the events herein alleged, or is a necessary party for obtaining appropriate
17 relief. Plaintiff will seek leave to amend when the true names, capacities,
18 connections, and responsibilities of the Defendants and Does 1 through 10,
19 inclusive, are ascertained.

20
21 **JURISDICTION & VENUE:**

22 7. This Court has subject matter jurisdiction over this action pursuant to
23 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans
24 with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

25 8. Pursuant to supplemental jurisdiction, an attendant and related cause
26 of action, arising from the same nucleus of operative facts and arising out of
27 the same transactions, is also brought under California's Unruh Civil Rights
28 Act, which act expressly incorporates the Americans with Disabilities Act.

1 9. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is
2 founded on the fact that the real property which is the subject of this action is
3 located in this district and that Plaintiff's cause of action arose in this district.
4

5 **FACTUAL ALLEGATIONS:**

6 10. The Plaintiff went to the Restaurant in October 2014 to eat.

7 11. The Restaurant is a facility open to the public, a place of public
8 accommodation, and a business establishment.

9 12. Restrooms are one of the facilities, privileges and advantages
10 specifically reserved by defendants to persons at the Restaurant.

11 13. Unfortunately, the women's restroom doorway clear passage width was
12 24 inches and inaccessible to wheelchair users in October 2014.

13 14. Additionally, the path of travel leading to the restroom entrance
14 required a person to navigate a step for which there was no ramp in October
15 2014.

16 15. Moreover, the restroom provides a toilet. However, instead of
17 providing two grab bars on adjacent or parallel walls for use by persons with
18 disabilities who need to transfer to the toilet, there were no grab bars in
19 October 2014.

20 16. The plumbing underneath the sink was not wrapped to protect against
21 burning contact in October 2014.

22 Finally, there were wall mounted accessories and equipment in the restroom
23 including a paper towel dispenser. Unfortunately, it was mounted so that its
24 highest operable parts were greater than 54 inches above the finished floor
25 and inaccessible to wheelchair users in October 2014.

26 17. Currently, the restroom remains inaccessible to wheelchair users.

27 18. The plaintiff personally encountered these problems. This inaccessible
28 condition denied the plaintiff full and equal access and caused her difficulty

1 and frustration.

2 19. Plaintiff would like to return and patronize the Restaurant but will be
3 deterred from visiting until the defendants cure the violations.

4 20. Plaintiff has wanted to patronize the Restaurant since her October
5 2014 visit but she is deterred from returning until the violations are fixed.

6 21. Plaintiff lives just six miles from the Restaurant.

7 22. Because of the location of the Restaurant, plaintiff would like to return.

8 23. The defendants have failed to maintain in working and useable
9 conditions those features required to provide ready access to persons with
10 disabilities.

11 24. The violations identified above are easily removed without much
12 difficulty or expense. They are the types of barriers identified by the
13 Department of Justice as presumably readily achievable to remove and, in
14 fact, these barriers are readily achievable to remove. Moreover, there are
15 numerous alternative accommodations that could be made to provide a
16 greater level of access if complete removal were not achievable.

17 25. Given the obvious and blatant violation, the plaintiff alleges, on
18 information and belief, that there are other violations and barriers on the site
19 that relate to his disability. Plaintiff will amend the complaint, to provide
20 proper notice regarding the scope of this lawsuit, once he conducts a site
21 inspection. However, please be on notice that the plaintiff seeks to have all
22 barriers related to his disability remedied. See *Doran v. 7-11*, 524 F.3d 1034
23 (9th Cir. 2008) (holding that once a plaintiff encounters one barrier at a site,
24 she can sue to have all barriers that relate to his disability removed regardless
25 of whether he personally encountered them).

26 26. Additionally, on information and belief, the plaintiff alleges that the
27 failure to remove these barriers was intentional because: (1) these particular
28 barriers are intuitive and obvious; (2) the defendants exercised control and

1 dominion over the conditions at this location and, therefore, the lack of
 2 accessible facilities was not an “accident” because had the defendants
 3 intended any other configuration, they had the means and ability to make the
 4 change.

5
 6 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**
 7 **WITH DISABILITIES ACT OF 1990** (On behalf of plaintiffs and against all
 8 defendants (42 U.S.C. section 12101, et seq.)

9 27. Plaintiff repleads and incorporates by reference, as if fully set forth
 10 again herein, the allegations contained in all prior paragraphs of this
 11 complaint.

12 28. Under the ADA, it is an act of discrimination to fail to ensure that the
 13 privileges, advantages, accommodations, facilities, goods and services of any
 14 place of public accommodation is offered on a full and equal basis by anyone
 15 who owns, leases, or operates a place of public accommodation. See 42
 16 U.S.C. § 12182(a). Discrimination is defined, inter alia, as follows:

- 17 a. A failure to make reasonable modifications in policies, practices,
 18 or procedures, when such modifications are necessary to afford
 19 goods, services, facilities, privileges, advantages, or
 20 accommodations to individuals with disabilities, unless the
 21 accommodation would work a fundamental alteration of those
 22 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 23 b. A failure to remove architectural barriers where such removal is
 24 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are
 25 defined by reference to the ADAAG, found at 28 C.F.R., Part 36,
 26 Appendix “D.”
- 27 c. A failure to make alterations in such a manner that, to the
 28 maximum extent feasible, the altered portions of the facility are

1 readily accessible to and usable by individuals with disabilities,
2 including individuals who use wheelchairs or to ensure that, to
3 the maximum extent feasible, the path of travel to the altered
4 area and the bathrooms, telephones, and drinking fountains
5 serving the altered area, are readily accessible to and usable by
6 individuals with disabilities. 42 U.S.C. § 12183(a)(2).

7 29. There must be an accessible path of travel that connects all buildings,
8 elements and spaces on the same site. 1991 Standards § 4.3.2. To be
9 considered an accessible route, there cannot be a stair or step. 1991
10 Standards § 4.3.8. Any such change in level measuring greater than ½ inch
11 must have a ramp or lift. *Id.* 2010 Standards § 303.4.

12 30. Here, the unramped step is a violation of the ADA.

13 31. All doors to restrooms must have a minimum clear opening of 32
14 inches with the door open 90 degrees, measured between the face of the door
15 and the opposite stop. 1991 Standards § 4.22.2; 4.13.5; 2010 Standards §
16 404.2.3.

17 32. Here, the failure to provide the 32 inch wide restroom doorway
18 opening is a violation of the ADA.

19 33. If controls, dispensers, receptacles or other equipment is provided in a
20 restroom, they must be on an accessible route and be mounted so that their
21 highest operable parts are no greater than 54 inches above the floor. 1991
22 Standards § 4.22.7; 4.27.

23 34. Here, the failure to ensure that the wall mounted accessories met the
24 height requirement is a violation of the ADA.

25 35. Hot water and drain pipes under lavatories must be insulated or
26 otherwise configured to protect against contact. 1991 Standards § 4.19.4;
27 2010 Standards §606.5.

28 36. Here, the failure to wrap the plumbing underneath the sink is a

1 violation of the ADA.

2 37. For a toilet to be considered accessible under the ADA, there must be
3 two grab bars on walls adjacent to the toilet to assist persons with disabilities
4 to transfer to the toilet. 1991 Standards § 4.16.4; 2010 Standards § 604.5.

5 38. Here, the failure to provide compliant grab bars is a violation.

6 39. Thresholds at doorways cannot exceed 3/4 inches for exterior sliding
7 doors and 1/2 for all other doors. 1991 Standards § 4.13.8; 2010 Standards
8 § 404.2.5.

9 40. Here, the threshold at the back entrance was higher than that allowed
10 by law.

11 41. There must be an accessible path of travel that connects all buildings,
12 elements and spaces on the same site. 1991 Standards § 4.3.2. To be
13 considered an accessible route, there cannot be a stair or step. 1991
14 Standards § 4.3.8. Any such change in level measuring greater than 1/2 inch
15 must have a ramp or lift. *Id.* 2010 Standards § 303.4.

16 42. Here, the unramped step is a violation of the ADA.

17 43. A public accommodation must maintain in operable working condition
18 those features of its facilities and equipment that are required to be readily
19 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

20 44. Here, the failure to ensure that the accessible facilities were available
21 and ready to be used by the plaintiff is a violation of the law.

22 45. Given its location and options, plaintiff will continue to desire to
23 patronize the Restaurant but she has been and will continue to be
24 discriminated against due to the lack of accessible facilities and, therefore,
25 seeks injunctive relief to remove the barriers.

1 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**
2 **RIGHTS ACT** (On behalf of plaintiffs and against all defendants) (Cal Civ §
3 51-53)

4 46. Plaintiff repleads and incorporates by reference, as if fully set forth
5 again herein, the allegations contained in all prior paragraphs of this
6 complaint.

7 47. Because the defendants violated the plaintiffs' rights under the ADA,
8 they also violated the Unruh Civil Rights Act and are liable for damages. (Civ.
9 Code § 51(f), 52(a).)

10 48. Because the violation of the Unruh Civil Rights Act resulted in
11 difficulty, discomfort or embarrassment for the plaintiffs, the defendants are
12 also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code §
13 55.56(a)-(c).)

14
15 **PRAYER:**

16 Wherefore, Plaintiff prays that this court award damages and provide
17 relief as follows:

18 1. For injunctive relief, compelling defendants to comply with the
19 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the
20 Plaintiff is not invoking section 55 of the California Civil Code and is not
21 seeking injunctive relief under the Disabled Persons Act at all.

22 2. Damages under the Unruh Civil Rights Act which damages provide for
23 actual damages and a statutory minimum of \$4,000.

1 3. Reasonable attorney fees, litigation expenses and costs of suit,
2 pursuant to 42 U.S.C. § 12205; Cal. Civ. Code § 52.

3
4 Dated: January 11, 2016

CENTER FOR DISABILITY ACCESS

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6 By: 
7 Mark Potter, Esq.
8 Attorneys for Plaintiff
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